

08-25-06

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

14

Application Number

10/812,718

Filing Date

March 29, 2004

First Named Inventor

Jon C. Taenzer

Art Unit

2644

Examiner Name

Ping Lee

Attorney Docket Number

2023796-7036165001

ENCLOSURES (check all that apply)☒ Fee Transmittal Form☐ Fee Attached☐ Amendment / Reply☐ After Final (pgs).☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/
Incomplete Application☐ Reply to Missing Parts
under 37 CFR1.52 or 1.53☐ Formal Drawing(s) (sheets)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a
Provisional Application☒ Power of Attorney, Revocation
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ Landscape Table on CD☐ After Allowance Communication to TC☐ Appeal Communication to Board
of Appeals and Interferences☒ Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s)
(please identify below):

Return Receipt Postcard

Remarks**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm

Bingham McCutchen LLP

Signature

Printed Name

Gerald Chan

Date

August 23, 2006

Reg.
No.

51,541

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

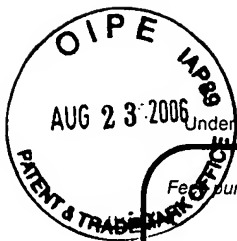
Sheila Badon

Date

August 23, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.
Fee pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL for FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known

Application Number	10/812,718
Filing Date	March 29, 2004
First Named Inventor	Jon C. Taenzer
Examiner Name	Ping Lee
Art Unit	2644
Attorney Docket No.	2023796-7036165001

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) : _____
☒ Deposit Account Deposit Account Number: 502518 Deposit Account Name: Bingham McCutchen LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayments of fee(s). ☐ Credit any overpayments
Under 37 CFR 1.16 and 1.17

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Small Entity
Fee (\$)

Each independent claim over 3 (including Reissues)

Fee (\$)

Multiple dependent claims

Fee (\$)

Total Claims

Extra Claims

Fee (\$)

Fee Paid (\$)

Multiple Dependent Claims

Fee (\$)

Fee Paid (\$)

_____ -20 or HP= _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims

Extra Claims

Fee (\$)

Fee Paid (\$)

_____ - 3 or HP= _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____ / 50 = _____ (round up to a whole number) x _____	_____	_____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Appeal Brief (in triplicate)

Fees Paid (\$)

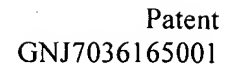
500.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	51,541	Telephone	650-849-4960
Name (Print/Type)	Gerald Chan	Date	August 23, 2006		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



1

I. REAL PARTY IN INTEREST

The real party in interest is the assignee GN Resound North America Corporation.

II. RELATED APPEALS AND INTERFERENCES

To the best of Applicant's knowledge, there are no related appeals or interferences.

III. STATUS OF CLAIMS

Claims 17-35 are pending. Claims 17-35 are rejected, and are appealed. Claims 17 and 23 are independent claims.

IV. STATUS OF AMENDMENTS

Amendment After Final under 37 C.F.R. § 1.116 was filed on February 28, 2006, in which claims 36-52 were canceled. The amendments to the claims were entered according to the Advisory Action mailed on March 15, 2006.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present section of the Appeal Brief is set forth merely to comply with the requirements of 37 C.F.R. § 41.37(c)(v) and is not intended to limit the pending claims in any way.

Claim 17 recites:

A method of achieving directional pickup of a radiated energy signal using a shadowing effect created by an energy propagation barrier, the method comprising:

locating a first sensor on one side of the barrier and a second sensor on an opposite side of the barrier;

determining a difference between amplitudes of signals respectively produced by the first and second sensors;

adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals; and

summing together the adjusted signals to produce a directional signal.

Claim 23 recites:

Apparatus for achieving directional pickup of a radiated energy signal using a shadowing effect created by an energy propagation barrier, the apparatus comprising:

a first sensor configured for being located on one side of the barrier;

a second sensor configured for being located on an opposite side of the barrier;

processing circuitry configured for determining a difference between the amplitudes of signals respectively produced by the first and second sensors, for adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals; and for summing together the adjusted signals to produce a directional signal.

Examples of a method that includes locating a first sensor on one side of the barrier and a second sensor on an opposite side of the barrier, determining a difference between amplitudes of signals respectively produced by the first and second sensors, adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals, and summing together the adjusted signals to produce a directional signal, are described on pages 5-17 of the specification.

Examples of an apparatus for achieving directional pickup of a radiated energy signal using a shadowing effect created by an energy propagation barrier, having a first sensor configured for being located on one side of the barrier, a second sensor configured for being located on an opposite side of the barrier, and processing circuitry configured for determining a difference between the amplitudes of signals respectively produced by the first and second sensors, for adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals, and for summing together the adjusted signals to produce a directional signal, are described on pages 5-17 of the specification.

VI. ISSUES

The issues for this appeal are (A) whether claims 17-52 comply with the written description requirement under 35 U.S.C. § 112, (B) whether claims 17, 19-21, 23, 25-27, 36, 46, and 47 are patentable under 35 U.S.C. § 102(b) over “Microphone-Array Hearing Aids with Binaural Output - Part II: A Two-Microphone Adaptive System” by Daniel P. Welker (“Welker”), and (C) whether claims 17, 18, 23, 24, 36, 42-45, and 49-52 are patentable under 35 U.S.C. 103(a) over U.S. Patent No. 6,697,494 (“Klootsema”).

VII. ARGUMENTS

Claims 18-22 and 29-32 depend from independent claim 17, and therefore, rise and fall with claim 17. Claims 24-28 and 33-35 depend from independent claim 23, and therefore, rise and fall with claim 23.

A. Claim Rejections under 35 U.S.C. § 112

Claims 17-52 stand rejected under 35 U.S.C. § 112 as allegedly failing to comply with the written description requirement. For written description rejection under § 112, “the fundamental factual inquiry is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed.” MPEP 2163.02. Also, the “subject matter of the claim need not be described literally (i.e., using the same terms or in haec verba) in order for the disclosure to satisfy the description requirement.” MPEP 2163.02.

According to the Office Action, the specification allegedly does not disclose a difference between amplitudes of signals respectively produced by the first and second sensors, and adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals, as recited in claim 17, and similarly recited in claim 23. Applicant respectfully disagree. Page 15, lines 18-21 of the application disclose amplitude difference between right ear and left ear signals in relation to head shadowing effect. In addition, page 15, lines 5-14 discuss beamforming technique based on head shadowing effect to optimize signal-to-noise ration, and adjusting

amplitudes in a beamformer embodiment. Furthermore, figures 15, 16, 19, and 20, and their corresponding passages discuss interaural difference, and adjusting signals based on the interaural difference. Beamforming technique for adjusting signals is also discussed throughout the specification. As such, the specification conveys to those skilled in the art that Applicant was in possession of the claimed invention. For at least the foregoing reasons, Applicant respectfully submits that claims 17-52 satisfy 35 U.S.C. § 112.

B. Claim Rejections under 35 U.S.C. § 102

Applicant respectfully notes that in order to sustain a claim rejection under § 102, each of the claimed elements must be disclosed, either expressly or inherently, in the cited reference. Applicant submits that claims 17 and 23 are patentable over Welker because Welker does not disclose or suggest one or more limitations recited in these claims.

Claim 17 recites determining a difference between amplitudes of signals respectively produced by the first and second sensors, and adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals. Claim 23 recites similar limitations. Welker does not disclose or suggest the above limitations. Welker discloses a microphone system, wherein signals from right and left microphones, f_R and f_L , respectively, are adjusted (See figure 2). Notably, in the top line of figure 2, signal f_L is added to signal f_R , and in the bottom line, signal f_L is subtracted from signal f_R . As such, Welker does not disclose or suggest adjusting amplitudes of signals (e.g., both left and right signals) based on a determined amplitude difference (i.e., the same amplitude difference).

According to the Advisory Action, figure 2 of Welker allegedly discloses modifying left signal by W_k , and modifying right signal by W_k . Applicant respectfully disagrees. First, W_k is not an amplitude difference. As such, even assuming that Welker discloses modifying left and right signals based on W_k (which is not true), Welker still does not disclose or suggest modifying left and right signals based on an amplitude difference. In addition, figure 2 discloses that W_k is used in a signal path for the left sensor, and that W_k is not used in the right signal path. As such, figure 2 of Welker does not disclose or suggest the above limitations.

For at least the foregoing reasons, Applicant respectfully submits that claims 17 and 23, and their respective dependent claims, are patentable over Welker under 35 U.S.C. § 102.

C. Claim Rejections under 35 U.S.C. § 103

Applicant submits that claims 17 and 23 are patentable over Klootsema.

Claim 17 recites determining a difference between amplitudes of signals respectively produced by the first and second sensors, and adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals. Claim 23 recites similar limitations. Applicant agrees with the Examiner that Klootsema does not disclose or suggest determining an amplitude difference. According to the Office Action, it would have been allegedly obvious to modify Klootsema by determining an amplitude difference so that the signals may be adjusted. Applicant respectfully disagrees. Klootsema discloses matching the levels of microphone signals, and does not disclose or suggest determining an amplitude difference, and adjusting signals based on the same determined amplitude difference. Also, just because matching of signals is disclosed, it does not necessitate a finding that the matched signals are determined based on an amplitude difference. As the Examiner correctly pointed out, there are different techniques that can be used to match signals. For example, two signals may be matched by adding the two signals and taking an average, in which case, there will be no need to determine an amplitude difference. As another example, two signals may also be matched by making one equal to the other. In such case, there will also be no need to determine an amplitude difference. Furthermore, even assuming that Klootsema discloses determining amplitude difference (which is not true), there is nothing in Klootsema that disclose or suggest adjust left signal based on the amplitude difference, and adjusting right signal based on the amplitude difference.

For at least the foregoing reasons, Applicant respectfully submits that claims 17 and 23, and their respective dependent claims, are patentable over Klootsema under 35 U.S.C. § 103.


VIII. CONCLUSION

For the above reasons, Applicant respectfully submits that rejection of claims 17-35 has been overcome. Accordingly, Applicant requests that the Board of Patent Appeals and Interferences overrule the Examiner and allow claims 17-35.

Respectfully submitted,

Bingham McCutchen LLP

Dated: August ~~23~~, 2006

By: 
Gerald Chan
Reg. No. 51,541

Three Embarcadero Center, Suite 1800
San Francisco, CA 94111-4067
Telephone: (650) 849-4904
Telefax: (650) 849-4800

APPENDIX A: Pending Claims

Listing of Appealed Claims 17-35.

17. (Previously Presented) A method of achieving directional pickup of a radiated energy signal using a shadowing effect created by an energy propagation barrier, the method comprising:

 locating a first sensor on one side of the barrier and a second sensor on an opposite side of the barrier;

 determining a difference between amplitudes of signals respectively produced by the first and second sensors;

 adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals; and

 summing together the adjusted signals to produce a directional signal.

18. (Original) The method of claim 17, wherein the adjusted signals are of approximately equal magnitude.

19. (Previously Presented) The method of claim 17, wherein the adjusted signals are summed together to produce multiple directional signals.

20. (Original) The method of claim 19, wherein the multiple directional signals form a binaural signal pair including a first directional signal in which energy from the first sensor is greater than energy from the second sensor, and a second directional signal in which energy from the second sensor is greater than energy from the first sensor.

21. (Previously Presented) The method of claim 17, further comprising, for each of multiple frequency bands:

 deriving a phase correction value; and

applying the phase correction value within that frequency band.

22. (Previously Presented) The method of claim 21, wherein the amplitude difference between the signals is determined within each of the multiple frequency bands, and the phase correction value determination is based on the amplitude difference determined within the respective frequency band.

23. (Previously Presented) Apparatus for achieving directional pickup of a radiated energy signal using a shadowing effect created by an energy propagation barrier, the apparatus comprising:

a first sensor configured for being located on one side of the barrier;

a second sensor configured for being located on an opposite side of the barrier;

processing circuitry configured for determining a difference between the amplitudes of signals respectively produced by the first and second sensors, for adjusting the amplitudes of the signals based on the determined amplitude difference to produce adjusted signals; and for summing together the adjusted signals to produce a directional signal.

24. (Original) The apparatus of claim 23, wherein the adjusted signals are of approximately equal magnitude.

25. (Previously Presented) The apparatus of claim 23, wherein the processing circuitry is configured for summing together the adjusted signals to produce multiple directional signals.

26. (Original) The apparatus of claim 25, wherein the multiple directional signals form a binaural signal pair including a first directional signal in which energy from the first sensor is greater than energy from the second sensor, and a second directional signal in which energy from the second sensor is greater than energy from the first sensor.

27. (Previously Presented) The apparatus of claim 23, wherein the processing circuitry is configured for, for each of multiple frequency bands, deriving a phase correction value and applying the phase correction value within that frequency band.

28. (Previously Presented) The apparatus of claim 27, wherein the processing circuitry is configured for determining the amplitude difference between the signals within each of the multiple frequency bands, and the processing circuitry is configured for deriving a phase correction value based on the amplitude difference determined within the respective frequency band.

29. (Previously Presented) The method of claim 17, wherein the energy propagation barrier is the head of a user.

30. (Previously Presented) The method of claim 17, wherein the signals are sound signals.

31. (Previously Presented) The method of claim 30, further comprising processing the directional signal to produce a resultant sound.

32. (Previously Presented) The method of claim 31, further comprising inputting the resultant sound into left and right ears of a user.

33. (Previously Presented) The apparatus of claim 23, wherein the energy propagation barrier is the head of a user.

34. (Previously Presented) The apparatus of claim 23, wherein the first and second sensors are microphones.

35. (Previously Presented) The apparatus of claim 23, wherein the processing circuitry comprises a digital signal processor (DSP).

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None